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JUL 01 2002
13C48

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) **0****Complete if Known**

Application Number	09/652,713
Filing Date	August 31, 2000
First Named Inventor	Trung T. Doan
Examiner Name	Sylvia R. MacArthur
Group / Art Unit	1763
Attorney Docket No.	93-0421.04

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☒ None☒ Deposit Account:Deposit Account Number
13-3092, Order No. 93-0421.04Deposit Account Name
Micron Technology, Inc.

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	
SUBTOTAL (1)					(\$0)

2. EXTRA CLAIM FEES

Total Claims	2	-20 **	=	0	X	18	=	0
Independent Claims	1	-3 **	=	0	X	84	=	0
Multiple Dependent					X		=	0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440*	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17 (q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)**SUBMITTED BY****Complete (if applicable)**

Name (Print/Type)	Charles Brantley	Registration No. Attorney/Agent)	38,086	Telephone	208-368-4508
Signature	Charles Brantley	Date	6/24/02		

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Trung T. Doan

Serial No.: 09/652,713

Filed: August 31, 2000

For: CHEMICAL DISPENSING SYSTEM FOR
SEMICONDUCTOR WAFER PROCESSING

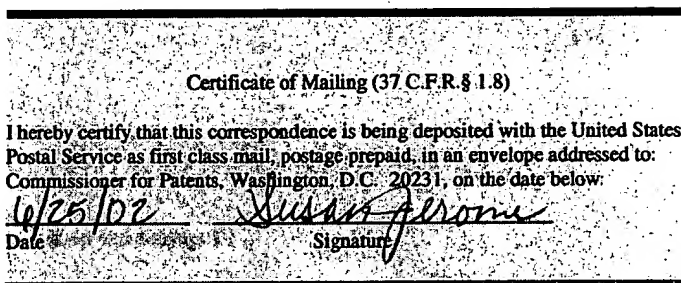
§
§ Group Art Unit: 1763
§
§ Examiner: Sylvia R. MacArthur
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§ Atty. Docket: 93-0421.04
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REPLY TO THE EXAMINER'S ANSWER DATED MAY 28, 2002

#13
7/16/02
MW

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:



Applicant herein responds to the Examiner's Answer dated May 28, 2002.

I. Section 2 of Examiner's Answer

Section 2 of the Examiner's Answer addresses related appeals and interferences. Applicant herein provides an update to the information originally presented there and in part II of the Appeal Brief. Specifically, concerning U.S. App. Ser. No. 09/652,969, the Examiner's Answer was mailed on 4/19/02, and Applicant's reply was submitted on 6/17/02.

II. Section 9 of Examiner's Answer

Section 9 of the Examiner's Answer addresses the prior art of record. Applicant notes that the patent listed by the Examiner is not an exhaustive list of every reference cited during prosecution.

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III. Section 11 of Examiner's Answer

Section 11 of the Examiner's Answer addresses the Response to Applicant's arguments and is further divided into subsections A, B and C based on those arguments. Applicant addresses each subsection separately below.

A. The Examiner's misinterpretation of Hurtig

One of Applicant's arguments is that the Examiner's attempt to analogize Hurtig's splash guard (element 104B) to claim 36's splash controller demonstrates a misinterpretation of Hurtig. (Appeal Brief at p. 3-4.) Specifically, Applicant noted that claim 36 requires that its splash controller be configured to *draw toward itself* a particular chemical. (*Id.* at p. 3.) Applicant pointed out that nowhere in the text and illustrations does Hurtig show such a configuration for its splash guard 104B. (*Id.*) Hence, Applicant concluded that the Examiner's contrary interpretation is, in fact, a misinterpretation. (*Id.*)

The Examiner's answer is to again cite Hurtig's splash guard 104B as being comparable to claim 36's splash controller. (Examiner's Answer at p. 5.) The Examiner also announces that Hurtig's splash controller is "configured to draw chemical toward the splash controller." (*Id.*) For support, the Examiner cites Hurtig's figures 1, 2, and 4. Applicant has already pointed out that such figures merely disclose a shaped material that may arguably be configured to guard against splashing but in no way indicate that the material is configured to draw *toward itself* any chemical. (Appeal Brief at p. 3.) Applicant also notes that the Examiner did not cite any of Hurtig's text in support of the Examiner's supposition. This is not surprising, as the only time Hurtig mentions the splash guard 104B is merely to introduce it with no further explanation. (Hurtig at col. 1, ln. 49.) Hence the Examiner's repeated citation to Hurtig's element 104B is insufficient to rebut the argument raised by Applicant.

Applicant further supported this argument by pointing out that there are other portions of Hurtig that *are* configured to draw chemicals toward *themselves* and away from Hurtig's splash guard. (Appeal Brief at 3.) Specifically, Applicant noted that drain lines 105, 106, 405, and 406

are configured to draw a chemical toward themselves and away from the splash guard. (*Id.* (citing Hurtig at FIGS. 1, 2, 4).) Unlike the Examiner's position, Applicant's position is supported by Hurtig's text as well as the figures:

[w]hen the system is operating, the factory exhaust system provides a suction on exhaust manifold 110 which tends to pull vapors from motor chamber 100B through line 107 and from drain tank 109 by means of connecting line 111. Since lines 105 and 106 are connected to drain tank 109, this suction also tends to pull vapors and air from coating chamber 100A.

(*id.* at col. 2, ln. 7-13);

[d]rain lines 405 and 406 draw air, vapor and excess photoresist from coating chamber 100A of coating machine 100 and feed them directly to exhaust manifold 410.

(*id.* at col. 3, ln. 44-47).

Applicant concluded that (1) the Examiner's interpretation concerning the configuration of Hurtig's splash guard conflicted with Hurtig's express teachings, and (2) as a result, *the Examiner's interpretation of Hurtig* yielded in an unworkable device. (Appeal Brief at p. 3-4.) The Examiner's Answer merely argues that Applicant must submit affidavits or declarations, assuming that Applicant is attempting to rebut a presumption of operability enjoyed by Hurtig. (Examiner's Answer at p. 5.) The Examiner cites *In re Sasse* (629 F.2d 675, 207 U.S.P.Q. 107 (C.C.P.A. 1980)) and MPEP §716.07 as support. The *Sasse* case indicates that, when the Patent and Trademark Office (PTO) cites a disclosure which expressly anticipates the present invention, the burden shifts to the applicant to rebut the presumption of the reference's operability. (*Id.*, 207 U.S.P.Q. at 111.) MPEP §716.07 echoes this rule.

Applicant contends that the *Sasse*/MPEP rule actually benefits Applicant and does not shift this burden to Applicant for at least two reasons. First, Applicant is not attacking the operability of Hurtig's device. Rather, Applicant is attacking the Examiner's interpretation of Hurtig, demonstrating that the Examiner's assumptions contradict Hurtig's express teachings.

The Examiner is assuming that Hurtig's splash guard 104B is configured to draw toward itself a chemical, even though nothing in Hurtig's text or figures demonstrate such a configuration. To the contrary, Hurtig expressly teaches that drain lines 105, 106, 405, and 406 are configured to draw a chemical toward themselves. (Hurtig at col. 2, ln. 7-13; col. 3, ln. 44-47.) Hurtig also expressly teaches that those components are configured such that they oppose the splash guard 104B. (*Id.* at FIGS. 1, 2, and 4.) Hence, if the Examiner's interpretation is true, then the splash guard 104B works against drain lines 105, 106, 405, & 406, and the Examiner's interpretation suggests that Hurtig's device is inoperable. However, because *Sasse* and MPEP §716.07 -- the very authorities cited by the Examiner -- indicate that Hurtig's device is presumed to be operable, it follows that the Examiner's interpretation must be improper. Thus, *Sasse* and MPEP §716.07 do not work against Applicant because Applicant is not questioning operability of Hurtig's expressed embodiments. Rather, Applicant is questioning the operability of a device resulting from the Examiner's attempt to read in a limitation that is neither illustrated nor described in words by Hurtig.

Second, Applicant notes that *Sasse* requires a condition precedent to applying its rule. Specifically, before *Sasse*'s burden shifts to Applicant, *Sasse* requires the Examiner to first cite a disclosure *which expressly anticipates the present invention*. (*Sasse*, 207 U.S.P.Q. at 111.) However, the Examiner has failed to cite such a disclosure. As argued above and in the Appeal Brief, there is a dearth of relevant disclosure in Hurtig, both in its text and in the figures, resulting in a failure to expressly anticipate the invention. Hence, *Sasse*'s burden never shifted to Applicant.

Applicant contends that the Examiner's Answer demonstrates a continued misinterpretation of Hurtig as well as a misinterpretation of Applicant's arguments. Applicant submits that the Board will be able to view both with greater clarity. Having done so, the Board will be justified in reversing the Examiner and allowing the claims.

B. The Examiner's baseless assumptions concerning inherent features

Another of Applicant's arguments is against the Examiner's announcement that that Hurtig's splash guard 104B inherently generates a gas pressure around an edge bead that is lower than ambient gas pressure. Specifically, Applicant pointed out that the Examiner's announcement

lacks support from the record and therefore fails to meet case precedent standards. (Appeal Brief at p. 4.) The Examiner's Answer announces that Hurtig's splash guard 104B "operates by suction" and concludes that Hurtig's teachings themselves support the Examiner's position. (Examiner's Answer at 6.)

However, as Applicant has pointed out above and in the Appeal Brief, Hurtig's splash guard 104B does not operate by suction; rather, other components of Hurtig address suction. For example, lines 105, 106, and 107; drain tank 109; and exhaust manifold 110 ultimately lead to a factory exhaust system. (Hurtig at col. 1, ln. 58 – col. 2, ln. 13 (addressing prior art); *see also* col. 3, ln. 26-47 (addressing an exemplary embodiment of Hurtig's invention); FIGS. 1, 2, 4.) Hurtig also briefly mentions a vacuum chuck for its wafer. (*Id.* at col. 1, ln. 14.) Nowhere, however, does Hurtig mention or illustrate that its splash guard 104B is configured to generate a gas pressure around an edge bead that is lower than an ambient gas pressure. This lack of disclosure is not surprising, as the splash guard 104B is merely illustrated to be a piece of shaped material (*id.* at FIGS. 1, 2, 4) warranting only a brief reference in one line of Hurtig's text (*id.* at col. 1, ln. 49). Thus, the Examiner is incorrect in announcing that Hurtig's splash guard 104B "operates by suction," and the Examiner's conclusion about the inherent features of Hurtig's splash guard 104B lacks support in the record. Accordingly, the Examiner has failed to satisfy the standards set forth in case precedent, including the case addressed in the Appeal Brief. (Appeal Brief at p. 4 (citing *Zurko*, 258 F.3d 1379, 59 U.S.P.Q.2d 1693 (Fed. Cir. 2001)).)

C. The Examiner's piecemeal and incomplete rejection

Yet another of Applicant's arguments is that the Examiner's rejection of the claims has been piecemeal and incomplete. Specifically, Applicant has noted that Examiner began applying Hurtig as early as the first Office Action, the limitations in claim 36 have been present since the beginning of prosecution, yet the Examiner failed to apply Hurtig to those limitations until the Final Office Action. (Appeal Brief at p. 5-7.) Applicant concluded that, in addition to the other problems with the Examiner's rejections, the Examiner's failure to promptly apply Hurtig to all relevant claims provides policy reasons for the Board's reversal of the Examiner and allowance of the

appealed claims. (*Id.* at p. 7.) The Examiner's answer is a single sentence announcing that Applicant's argument is irrelevant and moot. (Examiner's Answer at p. 6.)

Applicant submits that the Examiner's failure to follow the PTO's own guidelines for examination call into question the sufficiency of the Examiner's rejections and is therefore extremely relevant concerning the examination of the application under appeal. As a result, Applicant requests that the Board not be distracted by the Examiner's attempt to dismiss the impropriety of the Examiner's own conduct.

IV. Conclusion

The Examiner's Answer demonstrates a continued misinterpretation of Hurtig, a misinterpretation of at least some of Applicant's arguments, a disregard of Applicant's other arguments, and a disregard of the PTO's own standards for rejection. Any or all of these points demonstrate the Examiner's failure to meet the burden for rejection. As a result, Applicant respectfully repeats the request that the Board withdraw the rejections and allow the claims.

Respectfully submitted,

Charles Brantley
6/24/12

Charles Brantley
Registration No. 38,086
Micron Technology, Inc.
8000 S. Federal Way
Boise, ID 83716-9632
(208) 368-4557
Attorney for Applicant